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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,217	02/15/2002	John A. Obermark	501396	3946

23626 7590 02/17/2004
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EXAMINER

LAMB, BRENDA A

ART UNIT PAPER NUMBER

1734

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10,077,217

Applicant(s)

Obermeyer

Examiner

LAMB

Group Art Unit

1734

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ Responsive to communication(s) filed on Paper # 8 filed 9/25/03

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-45 is/are pending in the application.

☐ Of the above claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 1-20 and 34-45 is/are allowed.

☒ Claim(s) 21-24, 26 and 33 is/are rejected.

☒ Claim(s) 25 and 27-32 is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☐ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____

☐ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 21-24, 26 and 33 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 2-7 of U.S. Patent No. 6,521,044 (Obermark). Although the conflicting claims are not identical, they are not patentably distinct from each other because Obermark claims an apparatus for coating a metal strip with laminate comprising the following: a support frame; and a top and bottom roller coater. Obermark claims each of his roller coaters is comprised of an applicator roll adapted to receive and apply laminate, the applicator roll contacting the metal strip at a first contact point while in the engaged position, the applicator roller is driven in rotation by the metal strip while in the engaged position. Obermark teaches his roll coater is further comprised of a pair of supporting engaging the applicator roll in the engaged position at second and third point with the first, second and third contact points being located at different angular positions about the predetermined axis to carry the applicator roll therebetween. Obermark fails to claim the applicator roller is carried without journaling of the application roll in bearing. However, applicant's claim that the

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applicator roll is not physically connected to any part of the apparatus would have obviously included the application roll not being journaled in bearings. With respect to claim 22, Obermark claims the upper roll coater is further comprised support means for supporting the bottom of the application roll and retaining the applicator roll to in the upper roll coater. With respected to claim 24, Obermark claims the apparatus include a manifold for supplying laminate to the applicator roll and wherein each roller coater further includes an applicator head having structure scope of claim 24. With respect to claim 26, Obermark claims a control valve, manifold and means for modulating the valve having structure within scope of the claim. With respect to claim 33, Obermark claims the apparatus is situated upstream of the press machine lubricating the metal strip prior to reaching the press machine.

Claims 1-20 and 34-45 are allowed.

Claims 25 and 27-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication should be directed to Brenda Lamb at telephone number 571-272-1231. The examiner can normally be reached on Monday through Tuesday and Thursday through Friday with alternate Wednesdays off.

B. Lamb

February 2, 2004

Brenda A. Lamb
BRENDA A. LAMB
PRIMARY EXAMINER